

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

RAYFIELD JOHNSON,

Plaintiff,

v.

MISSOURI DEPT. OF MENTAL HEALTH,

et al.,

Defendants.

No. 4:17-CV-1521 CDP

MEMORANDUM AND ORDER

This matter is before the Court on plaintiff's motion for extension of time to file a notice of appeal. Plaintiff requests additional time to file his appeal because he suffers from a medical condition that causes him disorientation. He also states that the mail clerk at the Sex Offender Rehabilitation and Treatment Services ("SORTS"), where he is detained, is on administrative leave, and his mail has been delayed. Plaintiff attaches to the motion a letter from the United States Court of Appeals for the Eighth Circuit, which states that his notices of appeal in three separate cases, including this case, were untimely filed.

Under Rule 4(a)(5)(A) of the Federal Rules of Appellate Procedure, this Court may extend the time for filing a notice of appeal if the party so moves no later than 30 days after the time prescribed by this Rule 4(a) expires and if the party shows excusable neglect or good cause. No extension under . . . Rule 4(a)(5) may exceed 30 days after the prescribed time or 14 days after the date when the order granting the motion is entered, whichever is later. Fed. R. App. P. 4(a)(5)(C). The United States Court of Appeals for the Eighth Circuit has counseled that pro se appellants may

be given special consideration . . . regarding their notices of appeal. *Weekley v. Jones*, 927 F.2d 382, 386 (8th Cir. 1991).

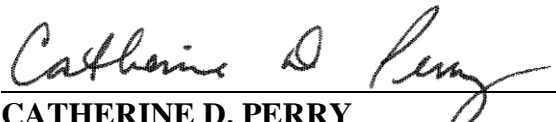
The Court dismissed plaintiff's case pursuant to 28 U.S.C. § 1915(e) on June 12, 2017. Under Rules 4(a)(1)(A) and 25(a)(2)(C) of the Federal Rules of Appellate Procedure, plaintiff's notice of appeal was due to be placed in the mail system at SORTS no later than July 12, 2017. Plaintiff placed his notice of appeal in SORTS's mail system on August 13, 2017. And plaintiff did not move to extend his appeal until October 2, 2017.

Neither plaintiff's notice of appeal, nor his motion to extend his notice of appeal was timely filed. Plaintiff's motion, therefore, will be denied.

Accordingly,

IT IS HEREBY ORDERED that plaintiff's motion for extension of time to file a notice of appeal [Doc. #12] is **DENIED**.

Dated this 6th day of October, 2017.



CATHERINE D. PERRY
UNITED STATES DISTRICT JUDGE